

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

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5 In the Matter of:

6 AGATHONISSOS FINANCE LLC, Main Case No.
7 Debtor. 23-10321-jpm

8 - - - - -x

9 In the Matter of:

10 ELETSON HOLDINGS INC., Main Case No.
11 Debtor. 23-10322-jpm

12 - - - - -x

13 In the Matter of:

14 ELETSON FINANCE (US) LLC, Main Case No.
15 Debtor. 23-10323-jpm

16 - - - - -x

17 United States Bankruptcy Court

18 One Bowling Green

19 New York, NY 10004

20 April 17, 2023

21 11:02 AM

22 B E F O R E:

23 HON. JOHN P. MASTANDO III

24 U.S. BANKRUPTCY JUDGE

25 ECRO: JONATHAN

23-10322-jpm Eletson Holdings Inc.

Motion for Joint Administration

23-10321-jpm Agathonissos Finance LLC

So Ordered Stipulation signed on 3/17/2023 By And Among The
Alleged Debtors, The Petitioning Creditors, And Levona
Regarding Contested Bankruptcy Proceedings, Arbitration, And
Stay Motion. with hearing to be held on 4/17/2023 (check with
court for location) (Rodriguez-Castillo, Maria)

Notice of Hearing /(Hearing Date: April 17, 2023 at 11:00 a.m.)
Notice of Hearing of Petitioning Creditors Motion for Entry of
an Order Directing Joint Administration of Involuntary
Bankruptcy Cases (Hybrid Hearing Attendance in Person or via
Zoom for Government) (related document(s)2)

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9 23-10323-jpm Eletson Finance (US) LLC

10 So Ordered Stipulation signed on 3/17/2023 By And Among The
11 Alleged Debtors, The Petitioning Creditors, And Levona
12 Regarding Contested Bankruptcy Proceedings, Arbitration, And
13 Stay Motion. With hearing to be held on 4/17/2023 (check with
14 court for location) (Rodriguez-Castillo, Maria)

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19 BY: STEPHEN D. ZIDE, ESQ.

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1 P R O C E E D I N G S

2 THE COURT: Morning. Please be seated.

3 All right. We are here on case number 23-10321, 23-
4 10322, and 23-10323.

5 May I have appearances for the record, please.

6 MS. PILLE: Your Honor, Ann Pille and Louis Solomon
7 from Reed Smith on behalf of the alleged debtors.

8 THE COURT: Good morning.

9 MR. ORTIZ: Good morning, Your Honor. Kyle Ortiz,
10 Brian Shaughnessy, and Brian Kotliar for the petitioning
11 creditors. They are Global, Alpine Partners, and Pach Shemen.

12 THE COURT: Good morning.

13 UNIDENTIFIED SPEAKER: Morning.

14 MR. ZIDE: Good morning, Your Honor. Stephen Zide
15 from Dechert on behalf of Wilmington Savings, the trustee.

16 THE COURT: Good morning. Thank you.

17 All right. Okay. Why don't we start with the motion
18 for joint administration?

19 MR. ORTIZ: Morning again, Your Honor. Kyle Ortiz
20 with Togut, Segal & Segal for the petitioning creditors.

21 Before jumping into that, two quick things that really
22 don't have anything to do with the case, Your Honor. First,
23 it's my first appearance in front of Your Honor since I joined
24 the bench, and that's something I'm very excited about. And I
25 look forward to hopefully having many opportunities to address

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1 interesting questions of law for the next fourteen years, Your
2 Honor.

3 THE COURT: Great. Thank you. I look forward to it
4 as well.

5 MR. ORTIZ: Yes. And the second thing, Your Honor, is
6 just out of a kind of overabundance of caution, just want to
7 disclose that we did work together for six years, Weil,
8 Gotshal. I don't think that's relevant any matter because I
9 left in 2015, I was not nearly as significant a part of the
10 firm as you were, and we were in different departments. And I
11 think, other than maybe something in recruiting, we never had
12 the opportunity to work together.

13 THE COURT: Thank you for disclosing that.

14 MR. ORTIZ: So I just wanted to disclose that.

15 THE COURT: Okay. Thank you.

16 MR. ORTIZ: So with regard to joint administration,
17 Your Honor, we filed the motion at docket 2 in each of the
18 cases. We filed a affidavit of service showing that we served
19 the motion. And then we saw that it was going to be on for the
20 hearing today. We filed the notice of hearing and an affidavit
21 service in connection with that.

22 This motion is purely administrative, Your Honor, to
23 keep the costs down for the parties, to reduce the burden for
24 the Court and for the clerk of court. There's actually been a
25 fair amount of activity in the case today, even without actual

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1 notice going out to any parties other than the folks who are in
2 this room today. So we think it's important as we move
3 forward, and we're hopeful that other parties will be involved,
4 that they'll have an opportunity to do it in a consolidated
5 fashion that just keeps things administratively clean for all
6 parties.

7 I'll note for Your Honor, because we are on a
8 involuntary basis with a gap period, that Rule 1015(b) does
9 contemplate joint administration in involuntary cases. The
10 rule says by or against a debtor and an affiliate Your
11 Honor can order joint administration.

12 And the last thing I'll say, Your Honor, I just want
13 to be very clear considering the posture of the case that we
14 don't think that this motion and Your Honor entering the order
15 has any substantive impact on the case. We're, of course, very
16 aware that the debtors, or alleged debtors, are contesting the
17 cases at this current time. We, of course, are hopeful that
18 they'll eventually consent, and we'll be able to work towards a
19 consensual resolutions. But we appreciate the posture. This
20 isn't any sort of gotcha where because join admin got entered
21 it means anything. We really just think it helps make
22 everybody's lives easier.

23 And in that regard, one of the things that the alleged
24 debtors asked us to do was to change the order so that it says
25 "alleged debtor" as opposed to "debtor". I don't really think

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1 the semantics matters, so we're more than happy to do that to
2 make this kind of a smooth process and give them comfort that
3 this isn't anything more than administrative, Your Honor.

4 So that, Your Honor, unless you have any questions, we
5 respectfully request an order entered jointly administering the
6 cases under the Eletson Holdings debtor.

7 THE COURT: And I believe there was no formal
8 objection filed to the motion though, correct?

9 MR. ORTIZ: That's correct.

10 THE COURT: Okay. Would anyone else like to be heard
11 on the motion at docket number 2, joint administration?

12 MS. PILLE: Your Honor, Ann Pille on behalf of the
13 alleged debtors.

14 I agree with everything Counsel has said. We did ask
15 for the change to be made with respect to the nomenclature from
16 "debtors" to "alleged debtors", just to acknowledge the fact
17 that this is conducted involuntary. But with respect to the
18 motion itself and the substance, we have no objection.

19 THE COURT: Okay. Great. Thank you.

20 So based on that and based on the submission, the
21 Court will grant the motion for joint administration at docket
22 number 2, and we'll look for the revised order to be submitted.

23 MR. ORTIZ: We'll submit that, Your Honor. Thank you.

24 THE COURT: Great. Thank you.

25 Would you like to turn now to the stipulation

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1 regarding the stay motion?

2 MS. PILLE: Yes, Your Honor. Ann Pille on behalf of
3 the alleged debtors with respect to the stay relief motion. As
4 Your Honor may be aware, that stay relief motion was only filed
5 in the Eletson Holdings Inc. case because Eletson Holdings Inc.
6 is the only party to that arbitration, at least amongst the
7 alleged debtors.

8 From our perspective, we have worked pretty
9 collaboratively with petitioning creditors up until now to try
10 to reach a solution that everyone believes is equitable and
11 appropriate. And that is memorialized in the stipulation that
12 was that entered chambers, which we have also shared with
13 counsel to the trustee this morning. And counsel has had an
14 opportunity to review that.

15 In terms of substance, as Your Honor is familiar from
16 reviewing the motion, we believe that a substantial portion of
17 the claims in the arbitration are not subject to the automatic
18 stay, but in the interests of compromise, we have reached the
19 stipulation with the petitioning creditors to allow the
20 arbitration to go forward, which everyone, I think -- I hope
21 not speaking out of turn -- believes is in the party -- all the
22 parties' best interest to get a resolution to the arbitration.

23 As Your Honor knows, every party to the arbitration
24 has agreed to arbitrate. The full dispute within those parties
25 is subject to arbitration, and there are no central claims.

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1 Those arbitration claims were filed last summer. They are on a
2 very expedited time schedule. They are due to go to trial, or
3 at least were due to go to trial, prior to the commencement of
4 these proceedings on April 24th.

5 And so the arbitrator is fully up to speed. And in
6 the interest of efficiency, we do believe it's appropriate for
7 that proceeding to go forward. But in order to satisfy the
8 petitioning creditors, we have agreed to bring matters of
9 enforcement back before Your Honor so that Your Honor could
10 fully evaluate the impact, if any, to the estate, to the extent
11 one exists at that time.

12 So I'm happy to entertain any questions Your Honor has
13 with respect to the stipulation or to the arbitration or to
14 allow anyone else to offer their comments. But from our
15 perspective, we believe that the stipulation is being presented
16 on an uncontested basis.

17 THE COURT: Okay. And so the arbitration, any
18 discovery, any appeals, et cetera, would proceed to conclusion?

19 MS. PILLE: Correct, Your Honor. We would come back
20 to this Court for enforcement. But everything short of that
21 could be done by the arbitrator.

22 I will tell Your Honor that, as expressed in the
23 papers, this is a matter of some urgency, at least in our
24 opinion. And I think everybody is on the same page with
25 respect to that. Justice Belen, who is the arbitrator, is

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1 prepared to see the parties to the arbitration as early as this
2 afternoon, if the Court is so inclined to enter that
3 stipulation, so that the parties to the arbitration to discuss
4 how to get it back on a trial track in relatively short order.
5 So we appreciate the Court's willingness to hear us on this
6 kind of a expedited time basis.

7 THE COURT: Okay. Thank you.

8 MS. PILLE: Sure.

9 THE COURT: Would anyone else like to be heard in
10 connection with the stipulation related to the stay motion?

11 MR. ORTIZ: Good afternoon again, Your Honor. Kyle
12 Ortiz with Togut, Segal & Segal for the petitioning creditors,
13 which I'll be very quick.

14 And well, just to be very clear, the stipulation does
15 resolve our objection. We were very happy that we were able to
16 get to a consensual resolution with debtors. That's really how
17 we want to -- at least from our perspective, we're going to try
18 to approach the case and try to reach resolution as much as we
19 can and limit the amount we have to burden the Court with so
20 that we can keep costs down as much as we can.

21 Because from the petitioning creditors' perspective,
22 and we hope it's a shared perspective with the debtors, we want
23 to make sure that we're maximizing value for the benefit of
24 creditors. We do think that the stipulation and it's allowing
25 the matter to go forward, except with regard to enforcement,

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1 helps ensure that that happens.

2 And I also think it's actually a very helpful
3 stipulation because it will resolve potential uncertainty in
4 the case, assuming the cases ultimately go forward. This is
5 very similar to something we did in a case a couple of years
6 ago in front of Judge Wiles called Pacific Drilling, where
7 serving as debtors' counsel, we filed a first day lift stay so
8 that an arbitration could go forward that involved a dispute
9 about a new build for a deep sea drilling vessel. And the
10 outcome of that arbitration would have roughly a 260-million-
11 dollar swing on whether or not that asset is coming into the
12 estate or out, and resolving that uncertainty was important.

13 I don't think the dollars are quite as big in this
14 case, but I do think that is a big uncertainty, particularly to
15 the extent that it ultimately is determined to be property of
16 the estate. So I think it's helpful and something we're happy
17 to see that this is ultimately going to go forward at some
18 point.

19 I'll acknowledge, as counsel said, it takes two to
20 tango. So we do appreciate the debtors' willingness to reach a
21 consensual resolution to move this process forward.

22 Really, from our perspective, the only reason we need
23 to be here today is because we're not the only party. I don't
24 know if others got notice in the case, but to the extent that
25 they ultimately became aware of the case that this hearing

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1 existed so that there's an opportunity for anybody else that
2 wants to be heard because this is obviously a collective
3 proceeding. It's not just a proceeding among these parties.

4 And I raise this really more as we look forward to the
5 motion to dismiss, because the motion to dismiss has been
6 filed, Your Honor. There is an affidavit of service, and that
7 likewise had, I think, notice only on us and the trustee. And
8 it's not for today. That's, I think, something we'll hopefully
9 be able to work out in connection with a scheduling order on
10 the motion to dismiss. But I do think it will be important at
11 some point in this case for other parties that are interested
12 to have an opportunity to weigh in.

13 But with regard to this motion, at least from the
14 petitioning creditors' perspective, we're happy that we're able
15 to get to a consensual resolution that moves things forward
16 that helps resolve this potential uncertainty that we think
17 will make hopefully plan conversations at some point in the
18 future. And we'll have all the information we need for those.

19 So with that, Your Honor, that's all we had to say.

20 THE COURT: Great. Thank you.

21 MR. ORTIZ: Thank you.

22 THE COURT: Would anyone else like to be heard?

23 MR. ZIDE: Yes. Thank you, Your Honor. Stephen Zide
24 from Dechert on behalf of Wilmington Savings, the trustee for
25 the funds at issue here.

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1 Just very briefly, I just want to point out there were
2 some statements here that the trustee was served with this. We
3 were not served. I think you were referring to the U.S.
4 Trustee. So to the extent there are pleadings that need to be
5 filed in this case on a go-forward basis, I would request that
6 parties please serve Wilmington Savings as the trustee of the
7 funds here.

8 Obviously, we were aware of this. We've been
9 following the docket. So I'm not going to say we didn't know
10 about this motion. But we were not properly served.

11 We have no objection to this. This stipulation looks
12 fine to us. I would say we were happy to see that there is a
13 stay for enforcement of the judgment. We did have some
14 concerns with transfers. There were some statements in the
15 motion that was filed by the alleged debtors here that some of
16 these assets may be transferred to a nominee.

17 We also had some correspondence with debtors prior to
18 the case, which just gave us some concern. So we're very happy
19 that that has been inserted in the stay order. Thank you, Your
20 Honor.

21 THE COURT: Great. Thank you.

22 Okay. Does anyone else want to be heard in connection
23 with the stipulation related to the stay relief motion?

24 Okay. Based on the presentations and having reviewed
25 the order, the Court will so order the stipulation and order

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1 granting alleged debtors' motion for relief from stay to
2 proceed with or to confirm the applicability of the automatic
3 state to pre-petition arbitration proceedings. We will so
4 order the stipulation.

5 Now, in connection with the motion to dismiss, I think
6 we had set a date, but we may need to move that a few days if
7 that's something the parties wish to discuss now.

8 MS. PILLE: Your Honor, Ann Pille on behalf of the
9 alleged debtors.

10 THE COURT: Okay.

11 MS. PILLE: We have had discussions with the
12 petitioning creditors --

13 THE COURT: Okay.

14 MS. PILLE: -- about the hearing on the motion to
15 dismiss. We had a, I would say, productive conversation on
16 Friday with them about various housekeeping matters. We do
17 plan to engage in discussions over the next day or two --

18 THE COURT: Okay.

19 MS. PILLE: -- about possible amendments to that
20 scheduling order and possibly presenting to the Court a
21 stipulation similar to the motion that we did on the motion for
22 stay relief that sets discovery guidelines and that revised
23 hearing date. But those discussions are ongoing, and we do --

24 THE COURT: Okay. Great.

25 MS. PILLE: -- believe that we'll be able to reach an

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1 agreement.

2 THE COURT: Okay. And you can reach out to chambers
3 for hearing dates or any other dates you need from the court.
4 I think we had set something for May 23rd but --

5 MS. PILLE: That's correct.

6 THE COURT: -- that would need to adjourn, but we
7 could get another date around the same time. Just, the 23rd
8 would work.

9 MS. PILLE: Yes. And Your Honor, as soon as we have
10 an understanding between the parties as to what types of
11 discovery the parties anticipate that they'll need, then we'll
12 be happy to communicate to the Court approximately how long out
13 we think that a hearing would be appropriate.

14 THE COURT: Okay. Great. Thank you very much.

15 MS. PILLE: Your Honor, my colleague Mr. Solomon
16 advises me that Justice Belen, because he is prepared to hear
17 the parties back in the arbitration as soon as this afternoon,
18 is asking for the entry of an order on the motion for stay
19 relief. And we're happy to wait until the Court is prepared to
20 provide that so we can provide it to Justice Belen this
21 afternoon.

22 THE COURT: The so ordering of the stipulation?

23 MS. PILLE: Correct.

24 THE COURT: Yeah, we can enter that right away.

25 MS. PILLE: Thank you.

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1 THE COURT: Yeah. Of course. It doesn't need to be
2 revised at all or anything based on today, right?

3 MS. PILLE: No.

4 THE COURT: Not from what I could tell. Okay.

5 MS. PILLE: I think it's fine. Yes.

6 THE COURT: Great. Thank you.

7 Anything else for today?

8 Okay. Great. We are adjourned. Thank you, everyone.

9 (Whereupon these proceedings were concluded at 11:18 AM)

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C E R T I F I C A T I O N

I, River Wolfe, certify that the foregoing transcript is a true
and accurate record of the proceedings.



River Wolfe (CDLT-265)

TTA-Certified Digital Legal Transcriber

eScribers

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Date: May 3, 2023

April 17, 2023

A	Americas (1) 8:16 AMIR (1) 7:8 among (1) 17:3 amongst (1) 13:6 amount (2) 10:25;15:19 ANN (5) 6:8;9:6;12:12;13:2; 19:8 anticipate (1) 20:11 appeals (1) 14:18 appearance (1) 9:23 appearances (1) 9:5 applicability (1) 19:2 appreciate (3) 11:19;15:5;16:20 approach (1) 15:18 appropriate (3) 13:11;14:6;20:13 approximately (1) 20:12 April (1) 14:4 arbitrate (1) 13:24 arbitration (15) 13:6,17,20,22,23, 25:14;1,13,17;15:1,3; 16:8,10;19:3;20:17 arbitrator (3) 14:5,21,25 Arch (1) 6:14 around (1) 20:7 asset (1) 16:11 assets (1) 18:16 assuming (1) 16:4 Attorneys (6) 6:3,13;7:3,12;8:3, 15 automatic (2) 13:17;19:2 Avenue (2) 7:13;8:16 aware (4) 11:16;13:4;16:25; 18:8 away (1) 20:24	B	13:25 cetera (1) 14:18 chambers (2) 13:12;20:2 change (2) 11:24;12:15 Chicago (1) 6:6 claims (3) 13:17,25;14:1 clean (1) 11:5 clear (2) 11:13;15:14 clerk (1) 10:24 collaboratively (1) 13:9 colleague (1) 20:15 collective (1) 17:2 comfort (1) 12:2 coming (1) 16:11 commencement (1) 14:3 comments (1) 14:14 communicate (1) 20:12 compromise (1) 13:18 concern (1) 18:18 concerns (1) 18:14 concluded (1) 21:9 conclusion (1) 14:18 conducted (1) 12:17 confirm (1) 19:2 connection (5) 10:21;15:10;17:9; 18:22;19:5 consensual (4) 11:19;15:16;16:21; 17:15 consent (1) 11:18 considering (1) 11:13 consolidated (1) 11:4 contemplate (1) 11:9 contesting (1) 11:16	conversation (1) 19:15 conversations (1) 17:17 correspondence (1) 18:17 costs (2) 10:23;15:20 Counsel (5) 12:14;13:13,13; 16:7,19 couple (1) 16:5 course (3) 11:15,17;21:1 COURT (40) 9:2,8,12,16;10:3,13, 15,24,24;12:7,10,19, 21,24;14:17,20;15:2, 7,9,19;17:20,22; 18:21,25;19:10,13,18, 20,24;20:2,3,6,12,14, 19,22,24;21:1,4,6 Court's (1) 15:5 Creditors (9) 8:3;9:11,20;13:9, 19;14:8;15:12,24; 19:12 creditors' (2) 15:21;17:14 current (1) 11:17
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